



**Attorney General
Betty D. Montgomery**

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October 1, 1997

Via Overnight Mail

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Office of the Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: *In the Matter of Federal State Joint
Board on Universal Service, C C
Docket No. 96-45.*

Dear Mr. Caton:

Enclosed please find the original and five copies of the Petition for Waiver of the Public Utilities Commission of Ohio in the above-referenced matter. Please return a time-stamped copy to me in the enclosed stamped, self-addressed envelope.

Thank you for your assistance in this matter.

Respectfully submitted,

Betty D. Montgomery
Attorney General of Ohio

Steven T. Nourse

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Enclosure

cc: International Transcription Services, Inc.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of

Federal-State Joint Board on
Universal Service

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CC Docket 96-45

**PETITION FOR WAIVER FOR
THE PUBLIC UTILITIES COMMISSION OF OHIO**

INTRODUCTION

For the reasons stated below, the Public Utilities Commission of Ohio (PUCO) seeks a waiver of the "pure income" eligibility and free toll limitation requirements for the Federal universal service mechanism, established under 47 U.S.C. § 254. Granting this waiver will allow low income customers enrolled in Ohio's Telephone Service Assistance (TSA) program to continue receiving the maximum available benefits, and will help avoid the possibility of low income customers being forced to discontinue their telephone service.

DISCUSSION

In its May 8th Report & Order on Universal Service (FCC 97-157, CC Docket 96-45), the Federal Communications Commission (FCC or Commission) ordered that certain revisions be made to its Lifeline program for low-income individuals, to become effective January 1, 1998. These changes were made pursuant to recommendations of the Universal Service Joint Board (Joint Board) and were done with the intent to make the federal Lifeline program consistent with the mandates of §254 of the Telecommuni-

cations Act of 1996 (Act). Accordingly, the Commission stated that, as of January 1, 1998, only those state lifeline programs that met the new FCC criteria would be eligible for support from the federal fund.

Presently, the PUCO has only one statewide program that delivers recurring lifeline benefits to low-income Ohioans. This program is known as Telephone Service Assistance, or TSA, and was developed in 1991 by the PUCO in response to directives issued through Ohio Substitute House Bill 254. Currently, a customer enrolled in the TSA program receives a waiver of his or her service connection charge and service deposit, as well as a discount of \$7.00 off his or her monthly phone bill. Half of the costs of providing these benefits are funded through the existing Link-Up and Lifeline programs.

The PUCO has recently become aware that two elements of its Telephone Service Assistance program are in conflict with the new FCC Lifeline requirements (that become effective January 1, 1998), and as such may jeopardize the availability of federal support for over 12,000 Ohio TSA recipients.

The first conflict involves the qualifying programs by which low-income Ohioans establish eligibility for the TSA program. Specifically, a customer can qualify for TSA if he or she participates in any of the following: 1) Ohio Energy Credits Program (OECF); 2) Supplemental Security Income on the basis of blindness or disability; or 3) a combination of Medicare and Medicaid. While all of these programs are fundamentally based on income, they are further defined by age or disability measures. As such, the qualifying programs associated with TSA do not meet the pure income criteria mandated by §54.409(a), Title 47, CFR.

The second element of the TSA program that conflicts with the new federal lifeline requirements concerns the provision of toll limitation services. When the Ohio General Assembly first promulgated the basic parameters for Ohio's lifeline program, it included a restriction such that TSA customers could only purchase those non-basic

services that were approved by the PUCO on the basis of medical or life-threatening conditions. While per-line blocking is included among the list of approved optional services, it is still only offered to TSA customers for purchase at the company's tariffed rate. Thus, the only toll limitation service currently available to TSA customers does not meet the FCC's mandate that toll limitation services be provided to lifeline customers at no charge. *Universal Service* (Report and Order at ¶ 385) (May 7, 1997).

Having identified the toll limitation conflict above, it should be noted that the PUCO, under Case No. 95-790-TP-COI, did prohibit the disconnection of Ohio customers' local service for the non-payment of toll, and further required that toll service termination be enacted on a carrier-specific basis only.

The PUCO supports the efforts of the FCC to make its Lifeline program more consistent with the goals of the 1996 Act. However, as mentioned above, the implementation of these new FCC guidelines would, absent a granting of the instant waiver petition, seriously impair the effectiveness of a lifeline program currently serving over 12,000 low-income Ohioans. A loss of federal funding for Ohio's TSA program would cause a 50% reduction in the benefits currently afforded these low-income customers, and may further result in some (if not many) of them falling off the network. Conversely, a granting of this waiver petition will enable such customers to receive the maximum benefits available through the new FCC lifeline program. While the characteristics of the TSA program are not entirely consistent with those of the new federal Lifeline program, surely the impact that a loss of federal funding would have on these customers is not consistent with the Act's nor the Commission's commitment to protecting the public interest.

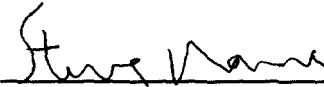
For the reasons stated above, the PUCO urges the FCC to grant a waiver of its newly mandated "pure income" eligibility and free toll limitation requirements for low-income Ohioans enrolled in TSA.

The PUCO greatly appreciates your prompt attention to this critical issue.

**On behalf of the
Public Utilities Commission of Ohio**

Betty D. Montgomery
Attorney General of Ohio

Duane W. Luckey
(Chief-Public Utilities Section)

A handwritten signature in black ink, appearing to read "Steve Nourse", is written over a horizontal line.

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